

Message

From: Soscia, Mary Lou [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0849F6BC30264A53B883725E58333224-SOSCIA, MARY L.]
Sent: 10/18/2018 5:11:12 PM
To: Wu, Jennifer [Wu.Jennifer@epa.gov]
CC: Byrne, Jennifer [Byrne.Jennifer@epa.gov]
Subject: RE: Riverkeeper decision - bad news

Jennie:

Good idea!

The delay on the 401 is due to Ecology being overwhelmed with the many "all-things-Columbia" that are going on right now that we have heard from them loud and clear in our calls on the TMDL. This decision is just a one ton dump on top of everything else.

m1

Mary Lou Soscia | Columbia River Coordinator | US EPA
805 S.W. Broadway, Suite 500 | Portland, OR 97205
503.326.5873
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-----Original Message-----

From: Wu, Jennifer
Sent: Thursday, October 18, 2018 10:00 AM
To: Soscia, Mary Lou <Soscia.Marylou@epa.gov>; Lidgard, Michael <Lidgard.Michael@epa.gov>; Poulson, Susan <Poulson.Susan@epa.gov>; Weber, Courtney <Weber.Courtney@epa.gov>
Cc: Palmer, John <Palmer.John@epa.gov>; Merz, Martin <merz.martin@epa.gov>
Subject: RE: Riverkeeper decision - bad news

Thanks for all the information. Busy times!

I'll talk with Ecology about the scope of the meeting, who's attending on their end, and what our goals are from each of our agencies. I want to make sure we get to the key issues on the permit and not get too deep in the weeds with overlapping projects/activities. Having said that, it's inevitable that the TMDL and other overlapping projects will be important parts of the conversation to inform the process for the key decision points on moving or not moving forward on the permit. So I will draft up a proposed agenda with this in mind and discuss with Ecology. Thanks to everyone for all the information.

-----Original Message-----

From: Soscia, Mary Lou
Sent: Thursday, October 18, 2018 7:56 AM
To: Lidgard, Michael <Lidgard.Michael@epa.gov>; Wu, Jennifer <Wu.Jennifer@epa.gov>; Poulson, Susan <Poulson.Susan@epa.gov>; Weber, Courtney <Weber.Courtney@epa.gov>
Cc: Palmer, John <Palmer.John@epa.gov>; Merz, Martin <merz.martin@epa.gov>
Subject: RE: Riverkeeper decision - bad news

We have an emerging state/federal 401 conflict with this convergence of situations. And we also have the recent announcement to use military bases for energy transport which I think is a direct response to state authorities.

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-----Original Message-----

From: Lidgard, Michael
Sent: Thursday, October 18, 2018 7:46 AM
To: Wu, Jennifer <Wu.Jennifer@epa.gov>; Poulson, Susan <Poulson.Susan@epa.gov>; Weber, Courtney <Weber.Courtney@epa.gov>
Cc: Soscia, Mary Lou <Soscia.Marylou@epa.gov>; Palmer, John <Palmer.John@epa.gov>; Merz, Martin <merz.martin@epa.gov>
Subject: RE: Riverkeeper decision - bad news

Jenny, thanks for sharing the news on the Riverkeeper decision. Also, regarding federal projects and WA state certification, I saw this article in the Seattle Times yesterday re the Longview coal-export terminal and Ecology certification action. Interesting, quick read. Fyi -

Corps of Engineers moving forward with review of Longview coal terminal despite state objections

Originally published October 16, 2018 at 6:00 am Hal Bernton By Hal Bernton ■ Seattle Times staff reporter

The U.S. Army Corps of Engineers will move forward with an environmental review of a proposed Longview coal-export terminal that already has been rejected by the state Department of Ecology for failing to meet water-quality standards.

The Corps' continued involvement has been sought by developers who want the Trump administration to help keep alive the Millennium Bulk Terminals project, which would offer a new outlet to export up to 48 1/2 million tons of western coal to Asian markets.

The Corps plans to oversee the preparation of a final environmental-impact statement by a yet-to-be-selected independent contractor, according to a statement released Monday by the Corps' Seattle district office.

The move is opposed by state Ecology Director Maia Bellon, who wrote a Sept. 10 letter of protest to Col. Mark Gerald, the Corps' Seattle district commander.

"We do not understand the Corps' decision to restart work on this proposal ... Our decision to deny the certification is final," Bellon wrote. " ... I urge you to follow long-standing Corps procedure and precedent by respecting Washington's decision under the Clean Water Act."

A Millennium official, Wendy Hutchinson, said that the Corps' "ongoing permit and design work demonstrates the project is still moving forward ... We are committed to building our coal-export terminal in accordance with all state and federal standards."

The Corps' review comes amid a broader push by the Trump administration to bolster the U.S. coal industry, which has been buffeted by long-term declines in demand as power-generation shifts to greater use of natural gas and renewable energy.

On Monday, The Associated Press reported that Interior Secretary Ryan Zinke proposed that U.S. military installations or other federal sites could possibly serve as export sites for sending coal to Asia.

International markets have improved during the past two years after a sharp slump that wiped out the profitability of shipping western coal to Asia for use in power plants, according to Clark Williams-Derry, of the Seattle-based Sightline Institute.

The Longview coal-export terminal, proposed by Millennium Bulk Terminals, has sparked a years-long battle that has pitted the coal industry against opponents, many of them environmentalists seeking to prevent the Northwest from becoming an export hub for coal and other fossil fuels that release greenhouse gases spurring climate change.

In September 2017, the state Ecology Department ruled against the project, citing impacts that included destruction of 24 acres of wetlands, an increase of 1,680 vessel trips a year on the Columbia and harm to aquatic habitat. The Department of Natural Resources also has rejected a sublease sought by project developers.

Millennium is challenging adverse decisions in state court, and also in a lawsuit filed in U.S. District Court in Tacoma that accuses Bellon, Gov. Jay Inslee and Public Lands Commissioner Hilary Franz of having "unreasonably delayed and denied a number of permits and approvals" because they oppose the project on policy grounds.

The Corps issued a draft environmental-impact statement about the project in 2016. Work then slowed as the project ran into roadblocks in the state and local permitting process.

With the agency short on staff, there were higher priority projects to pursue, according to Patricia Graesser, a Seattle District office spokeswoman for the Corps.

The agency has filled some vacant staff positions, and now decided to move forward with finishing the project review.

A federal permit could not actually be issued so long as the state certification continues to be denied.

But the developer wants the Corps to declare the state has waived its rights under the Clean Water Act because it took too long to make a decision and the denial was not based on factors outlined in federal law, according to an Aug. 17 letter sent to the Corps' Seattle district commander by Beth Ginsberg, an attorney representing Millennium.

"We look forward to discussing these issues more fully and will contact you to arrange a time to do in the immediate future," Ginsberg wrote to the Corps' Gerald.

The Corps has not provided a response to that letter, according to Graesser, the Corps' spokeswoman.

Hal Bernton: 206-464-2581 or hbernton@seattletimes.com; on Twitter: @hbernton.

-----Original Message-----

From: Wu, Jennifer
Sent: Wednesday, October 17, 2018 4:56 PM
To: Lidgard, Michael <Lidgard.Michael@epa.gov>; Poulsom, Susan <Poulsom.Susan@epa.gov>; Weber, Courtney <Weber.Courtney@epa.gov>
Cc: Soscia, Mary Lou <Soscia.Marylou@epa.gov>; Palmer, John <Palmer.John@epa.gov>; Merz, Martin <merz.martin@epa.gov>
Subject: FW: Riverkeeper decision - bad news

Mike, Susan and Courtney, (cc: Mary Lou, John, and Martin, although you already have received the original email),

FYI - For purposes of how this affects the Lower Columbia and Lower Snake dam permits and Ecology's consideration of the 401 cert, note that the Columbia River TMDL just got an unfavorable ruling this in this case which essentially is forcing EPA into a Settlement Agreement with Columbia Riverkeeper on the TMDL issuance (otherwise, EPA has to write the TMDL within 60 days - not going to happen).

This is important to know with respect to **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

-----Original Message-----

From: Cope, Ben
Sent: Wednesday, October 17, 2018 3:02 PM
To: Wu, Jennifer <Wu.Jennifer@epa.gov>
Subject: FW: Riverkeeper decision - bad news

Jenny, FYI on TMDL decision for Columbia. Yipes...!

-----Original Message-----

From: Byrne, Jennifer
Sent: Wednesday, October 17, 2018 1:52 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Croxton, David <Croxton.David@epa.gov>; Soscia, Mary Lou <Soscia.Marylou@epa.gov>; Mann, Laurie <mann.laurie@epa.gov>; Cope, Ben <Cope.Ben@epa.gov>; Blount, Keyyana <blount.keyyana@epa.gov>; Merz, Martin <merz.martin@epa.gov>; Labiosa, Rochelle <labiosa.rochelle@epa.gov>; Palmer, John <Palmer.John@epa.gov>
Cc: Fidis, Alexander <Fidis.Alexander@epa.gov>; Schary, Claire <Schary.Claire@epa.gov>
Subject: FW: Riverkeeper decision - bad news

I have not read it at all. Now that I've sent it to you, I will read it and get back to you.

Forwarding this in a hurry. Please send on to anyone I may have missed.

-----Original Message-----

From: Kolman, Chloe (ENRD) [mailto:Chloe.Kolman@usdoj.gov]
Sent: Wednesday, October 17, 2018 1:26 PM
To: Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Byrne, Jennifer <Byrne.Jennifer@epa.gov>
Cc: Buckley, Sarah (ENRD) <Sarah.Buckley@usdoj.gov>
Subject: Riverkeeper decision - bad news

Riverkeeper team -

We just got the order and it's a bummer. I haven't read it in detail, but the summary is we lost and the court gave us 30 days to approve or disapprove the construction submission, and then 30 days after a disapproval (since it basically says it doesn't see how we could approve) to issue the TMDL. The latter is openly intended to force us into settlement with Riverkeeper about an alternative timeframe.

I'll send more once I've had a chance to read it in detail. Please also send some times when you're free to discuss tomorrow or Friday.

Sorry.
Chloe